

1. LUPE Plaintiffs' deadline to file their motion to compel was June 20, 2023, pursuant to the parties' Stipulated ESI Agreement (Dkt. 251) and the Court's text order granting the parties' joint motion to extend LUPE Plaintiffs' deadline to file a motion to compel as to Defendant Nelson's privilege log (*see* Dkt. 625). *See* Dkt. 630 at 3 & n.3.
2. As described in their motion to compel, leading up to that deadline, LUPE Plaintiffs worked diligently to gather additional information in an effort to narrow the scope of any disagreement regarding the privilege assertions by Defendants Nelson and Scott. *See id.* at 3-4.
3. LUPE Plaintiffs were unable to file their Motion to Compel prior to the June 20, 2023 midnight deadline due to the time constraints of having to prepare exhibits that reflected improper privilege assertions. *See id.*, Exs. G to K. LUPE Plaintiffs filed their motion at 12:18 a.m. on June 21, 2023—18 minutes after the midnight deadline. *See* Dkt. 630.
4. On June 21, 2023, the Court directed Defendants Nelson and Scott to file a response brief no later than June 26, 2023, and directed LUPE Plaintiffs to file a reply, if any, no later than June 28, 2023. Dkt. 631. In that same order, the Court set an in-person hearing on the Motion to Compel for Thursday, June 29, 2023 at 1:30 p.m. *Id.*
5. The circumstances surrounding LUPE Plaintiffs' 18-minute delay in filing support granting the extension, including LUPE Plaintiffs' "good faith and the absence of any danger of prejudice to [other parties] or of disruption to efficient judicial

administration posed by the late filings.” *Pioneer Inv. Services Co. v. Brunswick Associates Ltd. P'ship*, 507 U.S. 380, 397 (1993).

6. Defendants Nelson and Scott are not prejudiced by the delayed filing of LUPE Plaintiffs’ Motion to Compel. Further, LUPE Plaintiffs’ delay in filing did not disrupt the Court’s schedule.
7. Given the short and excusable delay in filing, and lack of prejudice to the other parties in this matter, LUPE Plaintiffs respectfully request that the Court grant an extension of time for the filing *nunc pro tunc* of Plaintiffs’ Motion to Compel. *See* Dkt. 630.

CONCLUSION

For the reasons stated above, LUPE Plaintiffs respectfully request the Court grant their motion for extension of time to file *nunc pro tunc*. *See* Dkt. 630.

Dated: June 21, 2023

Respectfully Submitted,

/s/ Nina Perales

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that she has electronically submitted a true and correct copy of the above and foregoing via the Court's electronic filing system on the 21st day of June 2023.

/s/ Nina Perales
Nina Perales

CERTIFICATE OF CONFERENCE

The undersigned counsel hereby certifies that, on June 21, 2023, she conferred by email with counsel for the State concerning the subject of the instant motion. Counsel for the State indicated that they oppose the motion.

/s/ Nina Perales
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